INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1990

HEARING

BEFORE THE

SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2748

A BILL TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1990 FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES OF THE UNITED STATES GOVERNMENT, THE INTELLIGENCE COMMUNITY STAFF, AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM, AND FOR OTHER PURPOSES

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THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1990

THURSDAY, SEPTEMBER 7, 1989

HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS,
Washington, DC.

The subcommittee met, pursuant to call, at 2:10 p.m., in room 311, Cannon House Office Building, Hon. Gary L. Ackerman (chairman of the subcommittee) presiding.

Mr. ACKERMAN. The committee will come to order.

Today, the subcommittee will discuss section 601 of H.R. 2748, the Intelligence Authorization Act for fiscal year 1990. H.R. 2748 has been sequentially referred to the Committee on Post Office and Civil Service until September 13th.

Section 601 modifies the personnel demonstration project currently under way at the New York Field Division of the FBI. That project is the result of a joint study by the Office of Personnel Management and the FBI of recruitment and retention problems facing the New York office. The report was issued in March of 1988.

The demonstration project was authorized by the Intelligence Authorization Act of 1989, P.L. 100–453. Under the project, the FBI is authorized to pay a $20,000 lump-sum allowance to certain employees upon their directed assignment to New York City and to make periodic payments of 20 to 25 percent of their base pay to those employees throughout their service in that office. These payments are currently limited to those employees who are subject to directed geographical transfer or reassignment.

These payments were generally aimed at solving recruitment and retention problems among the special agents in the New York office. Recruitment and retention problems among support staff were to be addressed through existing special pay rate authority, according to the March, 1988, report. However, it has been almost a year and no special pay rates have been approved.

The bill before us today would expand the demonstration project and allow support staff to receive the periodic payments of 20 to 25 percent of the base pay.

The committee is well aware that the FBI is not the only agency to have problems recruiting and retaining qualified employees in the New York area. The Office of Personnel Management has recently released two reports which discuss the applicability of locali-

ty pay to the white-collar work force. Those studies will be the subject of subcommittee hearings later in this month.

The committee also looks forward to having recommendations from the National Advisory Commission on Law Enforcement so that we can examine the special problems which Federal law enforcement agencies face.

Today, we will hear from the Director of the Office of Personnel Management, Constance Newman, and the Associate Deputy Director of the FBI, John Otto.

That concludes my opening statement and I would like to call on my colleague and friend, the ranking member of the subcommittee, Mr. Myers.

Mr. MYERS. Mr. Chairman, I have no opening remarks. I am here just very shortly. I have to go to another committee in about 15 minutes, so I do apologize to those witnesses that I won't have the opportunity to hear, but I have read the testimony that you have already tendered.

Thank you, Mr. Chairman.

Mr. ACKERMAN. Thank you very much.

Our first witness before the subcommittee this afternoon will be the Honorable Constance Berry Newman, Director of the Office of Personnel Management.

Ms. Newman, welcome once again to the subcommittee. I don't have to tell you to feel at home. I hope you already feel at home with us. You can begin as you will, but I hope first you would introduce your associates to us.

Ms. NEWMAN. Mr. Chairman, I will introduce Claudia Cooley, who is Associate Director of the Office of Personnel Management. The other people at the table are from the FBI and I will let them introduce themselves.

Do you want to, Mr. Otto?

Mr. OTTO. I am John Otto, who is the Associate Deputy Director for Administration for the FBI.

Ms. BENDER. My name is Suzanne Bender. I am the Commsec Custodian in the FBI office in New York.

Mr. FOX. James Fox, Assistant Director in charge of the New York FBI office.

STATEMENT OF CONSTANCE BERRY NEWMAN, DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY CLAUDIA COOLEY, ASSOCIATE DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

Ms. NEWMAN. Mr. Chairman, and members of the subcommittee, thank you very much for inviting me to appear this afternoon to discuss section 601 of H.R. 2748, the Intelligence Authorization Act for fiscal year 1990.

The personnel demonstration project for the FBI's New York Field Division was established by last year's Intelligence Authorization Act to experiment with the solution to a particular problem. As the report of the House Intelligence Committee said:

> What distinguishes the circumstances of FBI employees in the New York area is that many FBI employees are transferred in and out of the New York area as a routine matter. The great majority are not recruited in New York and undergo significant hardship in terms of housing, commuting and overall living expenses by

transferring into the New York area because they were not already living in the area when they joined the Federal service.

It was these special circumstances of the FBI that, in OPM's view, warranted this demonstration project.

The FBI's New York Field Division is certainly not alone in the Federal service in having difficulty in recruiting and retaining employees. As the subcommittee is well aware, our Federal pay system is very rapidly approaching, and some would say has already reached, a crisis point. In high-cost, high-wage areas such as New York City, every Federal agency, not just the FBI, is finding that our current Federal pay rates are inadequate, and in some shortage occupations, Federal pay rates are inadequate in most locations.

The current Federal pay system has one means for addressing these problems, the special rate program. Under this program, OPM is able to provide pay increases when agencies are having particularly critical problems in recruiting and retaining employees and we have done so.

For example, for over 6,000 positions in 16 occupations in New York City, that is the case. Since the special rate program involves permanent increases in basic pay rates, however, it is not well suited to address the pay problems of employees who are subject to repeated geographical relocations. If employees who are reassigned from a low-cost to a high-cost area get special rates, they will carry those special rates with them if they are subsequently reassigned by management to a low-cost area where the special rates would no longer be justified.

It was this shortcoming of the special rates program that led OPM to decide the FBI demonstration project would be a worthwhile experiment. The combination of a lump-sum payment upon reassignment to New York and periodic payments only so long as an employee remains in New York is a logical way of addressing the question of how to compensate employees who are subject to mandatory geographical relocation and whose careers may involve being in an exceptionally high-cost area only for a limited period of time.

Thus, limiting this demonstration project to employees who are reassigned to New York and who are subject to subsequent reassignment out of New York was not an incidental restriction, but was fundamental to the design of this project.

For those FBI employees in New York who are not subject to mandatory relocation and who are, therefore, similar to the New York employees of most Federal agencies, the special rate program is available.

As with existing authorizations in New York which apply to all agencies with employees in the 16 occupations, special rates would be approved if the agencies are experiencing significant recruitment and retention problems generally and if agency budgets permit the use of special rates, they will be approved.

Accordingly, the administration is opposed to section 601 of H.R. 2748, which would extend the periodic payment aspect of the demonstration project to all employees in the FBI's New York Field Office. By attempting to eliminate a perceived inequity, the bill would create a greater inequity, by paying those FBI employees

substantially more than similarly situated employees in other agencies in New York.

Furthermore, these payments would, in the case of some of the affected employees, be on top of special rates they are already receiving, thus compensating them twice for being in this high-cost labor market.

Indeed, we now have under consideration a request from the Department of Justice for special rates for the remainder of the employees who would be covered by section 601. We are now reviewing the request from the perspective of the effect it would have on other Federal agencies in New York and expect to reach a decision very soon.

While we are opposed to section 601 of H.R. 2748 and believe that the special rates program is a better answer in the short term to any recruiting or retention problem agencies are having in New York, we do want to stress that we fully recognize this is only a very limited solution.

Last week, and I won't go into that great a detail on this, but last week, OPM released two major studies of our white-collar pay system, completing a year-long research effort. We believe that these studies will give us a sound basis for a broad dialogue with all interested parties on how to reform the Federal pay system. We are establishing a task force with representatives from agencies, unions, other employee organizations, public interest groups, and the private sector. I am asking this task force to identify possible reform alternatives that will meet the following objectives:

Facilitating the attraction, retention, and motivation of a qualified and representative work force;

Enhancing the potential of the pay system to function smoothly and effectively over time;

Being more responsive to occupational and geographic labor market differences;

Balancing the demands of internal job evaluation equity and external pay competitiveness;

Being as administratively simple and flexible as possible;

Utilizing scarce resources wisely, that is, directing available payroll dollars where they are most needed; and;

Being understandable and creditable to all interested parties, including employees, managers, unions, Congress, and taxpayers.

The task force's views will be considered in developing the administration's proposal for reform of our pay system for submission, hopefully, to Congress early next year. It would be my expectation that the administration's proposal would address the concerns of the FBI in a more comprehensive manner.

At this point, we seek a moratorium on legislation addressing subparts of a larger problem. Our present request for such a moratorium would not extend beyond December 1989.

I thank you and I would be pleased to answer any questions.

Mr. ACKERMAN. Thank you very much.

Please forgive the Chair's initial confusion. It was our intent to introduce Mr. Otto and Mr. Fox and Ms. Bender subsequent to your presentation as a separate panel, but this is fine. We will just do the questions separately, if that is okay with everyone.

Let me note that we are joined by Ms. Morella and Ms. Oakar, two very distinguished members of our subcommittee. Let me ask a couple of questions based on the testimony and then if either of you have any statements, you could give them at any time.

Ms. Newman, the joint OPM/FBI report on staffing problems in the New York Field Division had assumed that FBI employees not covered by the demonstration project would be covered by the special pay rates. That hasn't happened. Maybe you could tell us what possibly went wrong.

Ms. NEWMAN. My understanding, Mr. Chairman, was that the purpose of the demonstration was to cover those employees, mainly the agents, who were mandated to move, that over and above that, there was an expectation that the special rate program that affects all employees in a high-cost area would be available.

The problem is that the special rate program, because we are concerned about equities in the system, requires that agencies interested in the special-rate authority must get certification from other agencies in the area for the same kind of positions that there is an availability of funds and a need for a special rate. So although the initial idea was to have the demonstration cover those people for the FBI who must move, there was the contemplation that the special rate authority properly implemented was also available to the FBI.

Mr. ACKERMAN. Last March, during subcommittee hearings on the 1990 budget, I had asked an OPM representative whether there would be special pay rates for New York. He testified, and from his testimony—I will quote it—that he "expected to see some increases."

You have testified that you expect to reach a decision soon regarding the FBI request. Could you be more specific about when a decision will be reached and what alternative you might suggest if the special pay rate is rejected?

Ms. NEWMAN. I will begin the answer and then I will ask Mrs. Cooley.

It is my understanding that the proposal came in the end of May—came into OPM, because first it had to go through the Department of Justice to determine whether or not DEA and INS and some of the other divisions of the Department of Justice would certify as to the need for the special rates.

One of the reasons why it takes us some time to make these decisions is that we have to be assured that the other agencies in the area can certify as to the need for the special rates where the positions are common positions. I might say, Mr. Chairman, that this is an extremely important concept in my view in order to ensure equity.

Now, to your question, the meeting between OPM staff and agency representatives has taken place and the staff is preparing a document for my consideration.

I don't know, Claudia, if you want to add to that.

Ms. COOLEY. I would simply say at this point that in approaching this, when we did get the request from the Justice Department, first of all, we noticed that the request didn't even ask for a uniform approach across the Justice Department. So we first had to inquire about that because different pieces of Justice were handled

differently in the request. In other words, for the FBI, all of these occupations were to be covered, but for the Drug Enforcement Agency, that was not the case.

So we first had to deal with some equity issues and concerns in terms of the Justice request.

Then, as Director Newman has said, we, of course, have to be concerned about all the other agencies in New York. The FBI, I know, did try very hard in their efforts. They did collect the staffing data for all the agencies in New York City in similar kinds of occupations and they did that because they understood from the beginning that where we had common occupations, we needed to take a common approach in order to be fair to all Federal employers in the New York City area.

So they did take that on and they did have all the data that they needed in terms of the staffing data, but what we did not have, and frankly, still do not have, are certifications from most of the large Federal employers in the New York City area about the need for these rates and whether they can afford these rates.

So we have been working, trying to see if those certifications are going to be forthcoming so that we would have enough Federal employers in New York certifying that for these same occupations and grades, they, too, felt these rates were needed and were appropriate. So frankly, that is what we have been trying to deal with, to get other agencies involved in this, but so far, we have not succeeded.

Thank you.

Ms. NEWMAN. Mr. Chairman, may I add something to this?

Mr. ACKERMAN. Certainly.

Ms. NEWMAN. We are very sympathetic to the problem that we are not settling this more quickly. As a matter of fact, when we go through this process that we are beginning, starting the 20th of this month, in reviewing the pay system, we may have to take a serious look at our present requirement for certification by all of the agencies in a particular area. One of the points that I have made to Director Sessions is that we are asking now, and I have used the word in the testimony, for a moratorium. We are asking that we be given time, not very long, until the end of this year, to look at the entire system and determine whether or not the way in which we are determining pay is the proper way. It could be that our concern about ensuring that all of the agencies in that particular area certify to the need may not be the proper approach. We, in fact, have been pushing that because we are afraid that there would be an inequity, in terms of the people working for the various agencies, to say that a secretary or a computer specialist in one agency is worth more than a secretary or a computer specialist in another agency. In terms of managing the resources, we don't want to have a system where raiding employers from other Federal agencies rating goes on unnecessarily, and so there have been some other considerations that we must look at in revising and reviewing the system.

Mr. ACKERMAN. Thank you for that clarification.

You call for a moratorium on piecemeal approaches to pay reform. As you know, there are other piecemeal proposals that we

have before the Congress. What sort of a moratorium do you have in mind?

Ms. NEWMAN. It is a matter of timing, Mr. Chairman. For quite some time, I have felt that if we could get everybody to agree to come to the table and look at the way in which we should reform the system from this point forward, it would be most useful. I am aware that—and, in fact, have been very involved in—the administration view on the Department of Defense, the Department of Energy and those proposals for a demonstration. I had worked on those proposals prior to this testimony.

My belief is that the way in which we structure those demonstrations will not harm at all our plan to reform the system, but the preference is that we be given—now that we have put our study and the Wyatt Company study out—now that we are in the process of setting up a task force and are making a commitment to have some sort of proposal ready by January or February, we would believe that it would be most helpful if there were no more legislative proposals in the pay area.

Mr. ACKERMAN. Thank you.

Ms. Morella.

Mrs. MORELLA. Thank you very much. Thank you, and I wanted to ask you, Mr. Chairman, if I could unanimous consent to have opening remarks included in the record.

Mr. ACKERMAN. At least, unanimous consent.

Mrs. MORELLA. Thank you.

[The statement of Mrs. Morella follows:]

STATEMENT OF HON. CONSTANCE A. MORELLA

Mr. Chairman, at this time, I would like to make just a few observations on the problems of pay, retention and recruitment, and the direction that we should be taking to alleviate a problem which is affecting the Nation.

At the outset, I want to state that I think that the Federal Bureau of Investigation is doing a splendid job. Their expertise is diverse and the problems which they encounter in a day's work would make several entries in Ripley's Believe It or Not.

Most recently, the President has reminded the Nation of scourge of the drug problem. The F.B.I. is in the forefront of the endeavor to curb this epidemic, and deserves every support possible. Drug interdiction is a dangerous mission and for the most part, takes place in areas where the living cost is high, such as New York, Los Angeles, and Miami.

I am keenly aware of the immense retention and recruiting problems which are pervasive in these areas. Housing costs and commuting time are outrageous. I certainly endorse attempts to alleviate this dilemma.

Congress has already made provision for certain methods to remedy that pay disparity—though it may not always be adequate. The special rate program permits agencies to compensate employees when there is an acute problem in attracting qualified applicants and retaining career employees. I understand that agencies in New York are using the special rate/permanent increase method for compensation for personnel who do not get relocated.

Mr. Chairman, I believe that a demonstration project for F.B.I. personnel is meaningful when it includes personnel who are in job situations which are transferable from low cost areas to high cost locations. I am concerned to think that section 601 of H.R. 2748 would extend the demonstration to all personnel—even to those who would benefit from the special pay method. Perhaps during the course of the hearing, it will be made clear that the double compensation benefit was intentional.

Mr. Chairman, I am pleased that you have scheduled this bill for a hearing and that this subcommittee will have the opportunity to review this portion of the Intelligence Authorization Act for fiscal year 1990 which comes within the jurisdiction of the Committee on Post Office and Civil Service.

Mrs. MORELLA. I want to thank you for calling for this hearing and thank the panel. It is always good to see you, Director Newman. You have really inherited an enormous complexity of problems or, as we might say, all problems are opportunities. I wonder how many agents are now receiving special rates?

Ms. NEWMAN. My understanding is that agents are a part of it. There are a few other categories of people. My understanding is that the total number of FBI employees in New York is 1,900, a little over 1,900. Those who are part of the demonstration are 1,422. There are another 111 who are on special rates. Those are the secretaries in special rates.

So I think we are talking about something like 350 who are not covered either by the demonstration or by the special rates.

Correct me on that, Ms. Cooley. It is 400, I am sorry, 400 who are not covered by either the demonstration or the special rates. But the demonstration covers 1400 people.

Mrs. MORELLA. About 1,400.

Ms. NEWMAN. Yes.

Mrs. MORELLA. Have you been able to get a feeling or an analysis of how the other employees are reacting, what the fallout is to other employees who are not involved in the special rates?

Ms. NEWMAN. In New York?

Mrs. MORELLA. In New York.

Ms. NEWMAN. I will tell you what my assumption is. My assumption is that if the top people are getting something special, a recruitment/retention bonus, and the bottom people are getting special rates and there is a band in the middle that aren't getting anything, that they are not happy about it, and I imagine—I am just imagining—that there is probably a morale problem.

I suspect that that may be the rationale for coming in for this—that people would believe that this is important. My concern is that the morale problem is not only limited to internal morale problems, but that we have to look at problems across the Federal employment sector of New York. I can understand and am sympathetic to what is going on at the FBI, but I am not sure that is the way that we should solve the problem.

Mrs. MORELLA. It just seems as though so much this year is focused on this whole concept of locality differential. I hope we can come to some agreement on it. Thank you.

Thank you, Mr. Chairman.

Mr. ACKERMAN. Thank you very much.

Ms. Oakar.

Ms. OAKAR. Thank you, Mr. Chairman.

Mr. Chairman, I would like to make a few opening comments, if I can.

Mr. ACKERMAN. It will be our pleasure to hear them.

Ms. OAKAR. Thank you.

First of all, Mr. Chairman, I ask unanimous consent to submit my entire statement for the record.

Mr. ACKERMAN. Without objection.

Ms. OAKAR. I would like to thank Ms. Newman for her testimony. I have not had the pleasure of meeting her before, although I know of her and am delighted to have her here.

I would like to submit for the record two articles that appeared in the Washington Post: "Uncle Sam's Clerical Problem," and "Replace General Schedule with Four Pay Systems, Consultant Urges."

[The prepared statement and articles referred to follow:]

Statement of Representative Mary Rose Oakar

Subcommittee on Compensation and Employee Benefits

September 7, 1989

MR. CHAIRMAN:

I WOULD LIKE TO THANK YOU, CHAIRMAN ACKERMAN, FOR HOLDING THIS HEARING TODAY, AND FOR ALLOWING ME THE OPPORTUNITY TO OFFER MY STATEMENT FOR THE RECORD. ADDITIONALLY, I AM PLEASED TO HELP YOU WELCOME THE OFFICE OF PERSONNEL MANAGEMENT'S DYNAMIC NEW DIRECTOR, MRS. CONSTANCE NEWMAN, AS WELL AS MR. JOHN OTTO, ASSISTANT DEPUTY DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION AND REPRESENTATIVES OF THEIR NEW YORK DIVISION. I LOOK FORWARD TO HEARING YOUR TESTIMONY.

I WOULD LIKE TO BEGIN BY SAYING, I FULLY SUPPORT THE OBJECTIVES OF THE FBI'S NEW YORK DIVISION DEMONSTRATION PROJECT. SUCH DEMONSTRATIONS ARE AN IMPORTANT AID TO ILLUSTRATE THE GROWING FEDERAL PAY PROBLEM. FURTHERMORE, IF THE FBI DEMONSTRATION IS TO SUCCEED, THE FBI SUPPORT STAFF AND ALL AGENTS NOT CURRENTLY INCLUDED IN THE PROJECT SHOULD BE INCLUDED.

OF COURSE, WE ALL KNOW THE EXTENT OF THE FEDERAL PAY PROBLEM. THE AVERAGE FEDERAL EMPLOYEE PAYS MORE FOR HIS HEALTH CARE BENEFITS THAN THE AVERAGE PRIVATE SECTOR EMPLOYEE. ADDITIONALLY, I AM NOT SURPRISED BY, NOR DO I DOUBT THE RECENT REPORT THAT ON AVERAGE, FEDERAL EMPLOYEES WILL NEED A 28 PER CENT PAY INCREASE

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TO BE ON PAR WITH THEIR PRIVATE SECTOR COUNTERPARTS. AS FAR AS FEDERAL LAW ENFORCEMENT IS CONCERNED, IN HIGH COST OF LIVING AREAS SUCH AS NEW YORK, THE PAY PROBLEM IS RAPIDLY DETERIORATING INTO A LAW ENFORCEMENT CRISIS. THIS IS EVIDENCED BY THE FACT THAT THE INTELLIGENCE COMMITTEE IS EQUALLY CONCERNED ABOUT THE HIGH RATE OF ATTRITION AMONG THE EXPERIENCED RANKS OF THE NEW YORK DIVISION.

LAST YEAR, MR. CHAIRMAN, YOU GRACIOUSLY HELD A RELATED HEARING TO DISCUSS THE EXISTING ARBITRARY PAY CAP ON FEDERAL LAW ENFORCEMENT OFFICERS ADMINISTRATIVELY UNCONTROLLABLE OVERTIME PAY. THE TESTIMONY THAT CAME OUT OF THAT HEARING FOCUSED ON THE GROWING INEQUITY BETWEEN FEDERAL LAW ENFORCEMENT OFFICERS AND THEIR COUNTERPARTS AT THE STATE AND LOCAL LEVELS. WE ARE LOSING OUR BEST AND MOST EXPERIENCED OFFICERS AND SUPPORT STAFF BECAUSE OF THIS INEQUITY, AND ANY POSITIVE STEPS THAT WE CAN TAKE TO CLOSE THIS WAGE GAP MUST BE TAKEN. I HAVE REINTRODUCED THIS AUO LEGISLATION IN THE 101ST CONGRESS, H.R. 215, AND SO FAR IT HAS GARNERED A WIDE RANGE OF SUPPORT. THIS BILL WILL NOT COME CLOSE TO CLOSING THE PAY GAP, BUT IT WILL ELIMINATE ONE OF MANY INEQUITIES THAT CONTRIBUTE TO DIMINISHED MORALE AND THE LAGGING STANDARDS SET FOR OUR FEDERAL LAW ENFORCEMENT PERSONNEL.

MR. CHAIRMAN, PRESIDENT BUSH HAS JUST ANNOUNCED HIS COMMITMENT TO OUR NATION'S WAR ON THE SCOURGE OF DRUG ABUSE. YET HE HAS NOT

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ADEQUATELY ADDRESSED THE PROBLEM OF PAY FOR THE FRONT LINE SOLDIERS FIGHTING THAT WAR. THE PRESIDENT CALLS FOR A LARGER POLICE FORCE. YET, CURRENTLY IT IS EXTREMELY DIFFICULT FOR THE FEDERAL GOVERNMENT TO ATTRACT QUALIFIED INDIVIDUALS. OF COURSE WE AWAIT THE FINDINGS OF THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT -- HOWEVER, I BELIEVE WE ALREADY KNOW THE EXTENT OF THE PROBLEM.

MR. CHAIRMAN, I APPRECIATE YOUR LEADERSHIP IN THIS AREA. I AM AWARE THAT YOU AND YOUR STAFF ARE CURRENTLY LOOKING AT ALL ASPECTS OF THE FEDERAL PAY SITUATION. I SUPPORT YOUR CONTINUED EFFORTS TO RESTORE THE PROPER DIGNITY AND RESPECT TO OUR FEDERAL LAW ENFORCEMENT PERSONNEL. THANK YOU AGAIN, FOR CALLING THIS HEARING TODAY. I EAGERLY AWAIT THE COMMENTS OF MY COLLEAGUES AS WELL AS THOSE OF THE DISTINGUISHED MEMBERS OF THE PANEL GATHERED BEFORE US. I HOPE THAT OBSERVATIONS MADE AT THIS HEARING WILL LEAD TO A WORKABLE SOLUTION TO THE ENTIRE PROBLEM BEFORE US.

Uncle Sam's Clerical Problem

Able Secretaries Prove Hard to Find, Keep

By Judith Havemann
Washington Post Staff Writer

If you can type a little, subtract 3 from 24, spell "occasion," define "conciliatory" and tell how many of these numbers—10235, 10235 and 10235—are alike, you probably could get a job with the federal government in Washington as a clerk/typist. Sixty percent of the people who apply can't.

"Boiled down," said an Agriculture Department manager, "we have a problem with adult literacy."

The federal government is recruiting for its showcase headquarters jobs in one of the tightest labor markets in the country, hiring workers fresh out of the troubled District school system, paying uncompetitive salaries of $14,085 to $20,143 a year and searching for applicants with good grammar and polished English in a shrinking pool of native English speakers. Those it hires then go to work in the front offices of the nation's most powerful officials or to work on millions of dollars worth of computer equipment.

Clerks, typists and secretaries make up the "front line" of the federal government, in the words of Constance Newman, the federal personnel chief. These 222,000 workers, the largest job group in the government, provide the public barometer of the state of the Civil Service.

It is a deteriorating state.

Despite a special mid-year pay raise, apprenticeship programs to improve English comprehension and reading, and advisory councils to boost morale, a majority of federal departments surveyed last year said clerical problems remained about the same as they were in 1987 when turnover was 38 percent.

"They want people with so many credentials," said Tanya Williams-Berkley, 23, an Environmental Protection Agency (EPA) employee. "If I had all these credentials, I'd be working for Mitre" Corp., a private research and development company in McLean that is free from the government's pay restrictions.

"We face a problem on both the supply and the demand side," said Newman, director of the Office of Personnel Management. "Yes, there is a problem with adult literacy. We need to work with the superintendent of schools." But, she noted, the government can have a more immediate effect on the demand side—providing incentives, both psychological and monetary, for good work and sanctions for bad.

As a practical matter, Newman said, the government has too many offices in which there are a "few people who work and others who wander around and fuss. Managers say, 'If I tighten up, I'll lose them.' The way some phones are answered, it might be better to let them ring.

"We've got to give recognition to the people who are performing, treat them with dignity, involve them in the team and toughen up.

People should be fired if they don't do quality work. It wouldn't require too many dismissals to convince people we are serious.

"If you don't expect much out of a secretary, you don't get it," said Newman, who began her career as a GS-3 clerk.

No one is more painfully aware of disproportionate workloads in an office suffering from chronic vacancies than the employees who take up the slack. They know who works and who doesn't.

"The willing ones get all the work," said Sharon Evans, an EPA secretary, who said she began as a GS-1 in 1983 and has risen to a GS-7 with two clerk typists under her. "In government it takes more to get rid of people; you can't do anything about it."

"There's always too much to do if you're a hard worker," said Jean Vrba, another EPA secretary. "If you're not a hard worker, you're able to slide. I don't understand that part of government."

The unspoken answer to the problem has been automation. At a cost of $1.8 billion, the government has purchased 490,000 microcomputers, roughly one for every three of its white-collar workers, enabling much of the preparation of rough drafts and reports to be performed directly by professionals.

While this has cut back on some typing duties, it has left the clerical workers with a high concentration of jobs that are often less attractive than straight typing: filling out forms, formatting letters, checking spelling by computerized program, answering phones and the dreaded "hand-carries," which send them lugging papers from one end of the government to the other.

As computers "dumb-down" some jobs held by secretaries and clerks, in the jargon of the women's movement, they also increasingly divide them into two streams: the upwardly mobile who can keep up with changing technology and take on managerial tasks and an often resentful group that lacks the necessary education or skills.

To be sure, skilled and dedicated women and a handful of such men can be found at desks all over Washington, juggling several bosses, cleaning up grammar, organizing offices and making their superiors look better than they are.

But other officials, particularly at the Defense and State departments and at the Central Intelligence Agency, complain of attempting to prepare material of the utmost sensitivity with semi-literate assistants. The clerical test for entry-level workers checks skills normally associated with a 10th-grade reading level, and the average passing score of workers hired this month is 78 on a scale of 100.

Some offices are bereft of support personnel—with telephones hooked up to machines and materials prepared directly on personal computers. The number of clerical positions in government has declined almost steadily since 1974 as the size of the government increased.

"You talk to a manager who used to have an office full of secretaries who has been told to take cuts," said John M. Golden, personnel director of the Commerce Department. "Sometimes he'll say, 'Might as well cut this [clerical] job; can't fill it anyway.' "

The emerging situation often makes bosses unhappy, too. One EPA employee complained bitterly

that his job description changed in mid-career. Trained as an engineer, he said he is now expected to type his own reports and is judged accordingly. Money that should have been used to hire clerical support was diverted to purchase computers favored by younger employees, he contended. EPA personnel officials denied requiring individuals to learn to type in mid-career as an element of their official performance appraisal.

The mid-career official's concern about the performance appraisal system also is a sore point for many clerical workers. Although increasing numbers of women and blacks have moved into professional and managerial ranks in recent years, the bosses are still predominantly white men. In the metropolitan area, 54.5 percent of the government's clerical workers are black and the overwhelming majority are female.

Newman said that some of the ancedotes passed around about secretaries have an unpleasant ring: relatively well-educated, relatively well-paid people complaining about people without such advantages. "Some of them remind me of the stories people tell about their cleaning ladies," she said.

She dismissed talk by some white managers that they fear black employees might file an Equal Employment Opportunity complaint of discrimination against a manager who tried to take disciplinary action.

"Managers are getting paid to manage, to evaluate, to decide. They're not getting paid to avoid EEO suits," Newman said. "Each of us is getting paid to take whatever guff we have to take in the course of our job. The ones who ought to be worried about EEO suits are the people who are in fact picking on folks."

The EPA, like many federal agencies, is so concerned about attracting and keeping clerical workers that it has established secretarial task forces and a national Secretarial Advisory Committee. And it has encouraged worker groups like Office of Water Secretaries on the Move.

Another government-wide trend is to promote promising secretaries into semi-managerial positions with higher pay. Williams-Berkley recently was made a management assistant at the EPA.

"A lot of people feel good about having a different title," she said. "Sometimes I feel good about getting a different title. But basically," she said, "you are still doing the same old stuff."

THE WASHINGTON POST THURSDAY, AUGUST 31, 1989

Replace General Schedule With 4 Pay Systems, Consultant Urges

By Judith Havemann
Washington Post Staff Writer

After one of the largest research projects in history, an Office of Personnel Management consultant said yesterday that the monolithic General Schedule of federal salaries "has outlived its usefulness" and recommended the creation of four new pay systems based on local market rates.

The Wyatt Corp., an international benefits and compensation consulting firm, urged OPM to:

- Create local salary schedules for clerical, technical and some other "support" jobs because pay varies dramatically from area to area.
- Establish a national schedule for professional and administrative jobs supplemented by pay "differentials" in places like New York, San Francisco and Los Angeles where comparable private salaries are off the charts.
- Set up a separate salary system for health-care specialists because their salaries have been rising so fast that the governmental system for paying them has foundered.
- Develop a special system for law enforcement agents much like that maintained by the intelligence agencies because virtually all such jobs are governmental, and private-sector comparisons are useless.

"Extreme dissatisfaction" is expressed by most people touched by the current system, Wyatt said.

"We have major problems with pay," said OPM Director Constance Newman. "This is our last chance to get a grip on it in a comprehensive fashion before each agency goes off on its own."

Indeed, the system already is becoming fragmented. The Senate

"We have major problems with pay."
—OPM Director Constance Newman

has passed legislation allowing 10 percent of the government to participate in "demonstration" projects overriding the General Schedule. Special pay provisions have been

passed for the Energy and Defense departments. The FBI and the National Institutes of Health are clamoring for relief.

Part of the Veterans Administration already has its own pay schedule, and more than 150,000 employees are receiving "special rates," and 20,000 "special rate" jobs are unfilled.

The consultant's recommendations would cost an estimated $6 billion in the first year.

The Wyatt Corp. found that "backdoor" methods to increase pay are rife. One common method is to promote workers at a dizzying rate, the consultant said.

Wyatt recommended that an agency supervisor should have the flexibility to pay 5 to 10 percent of employees above normal salary rates, give bonuses and help in relocation to high-cost areas.

About 500 "world class" experts in senior positions should be paid without regard to salary ceilings, the consultant recommended. This proposal is similar to that of President Bush and is designed to allow the government to attract Nobel Prize winners or similar persons to head or staff some key agencies.

Previous proposals for locality pay have died in Congress because some federal workers would have been required to take salary cuts. The Wyatt report said that "no federal employees would suffer salary cuts" under the firm's proposal.

The study said average federal salaries are 14 percent behind private salaries, and few places in the country lag behind the national average to the extent that federal salaries are higher than the going rate.

In only three areas—Indiana, West Virginia, and the Georgia-Florida border—are federal technical salaries significantly above the going rate, according to the study. And nowhere are clerical or administrative salaries above the market by as much as 15 percent.

Union reaction to the proposal was initially positive. Newman intends to establish a task force to study the issue in September and October, and to propose legislation early next year.

Ms. OAKAR. First of all, Mr. Chairman, I want to say that I support the objectives of the demonstration project referred to by Ms. Newman. I think it is through these kinds of demonstration projects that we do see the bigger picture. Ms. Newman, there is a real problem in morale, as you know, for Federal employees who are undervalued and underpaid in general.

I have introduced—and my chairman has had a hearing—a bill that would address the overtime problem that the FBI and other law enforcement individuals have. I hear that the President wants to raise the salaries of senior executives, which I support. I support removing the cap and so on. I, with the chairman's indulgence, want to take this opportunity to say that I am dismayed at the absence of any kind of assistance to the lower-paid individuals. That is why these articles are very interesting to me that appear in the paper and your comments were somewhat interesting as well. I am dismayed that no one is ever concerned about the undervalued employees, which I suppose includes every Federal employee, but in particular minorities and women who are, as you know from GAO studies, in the bottom five rungs of the GS system.

It has always been very disheartening that we couldn't even study, comprehensively, the situation without the past administration being extraordinarily outrageous in their opposition to a study.

Having said that, I hope that you don't go about the business at hand without reviewing every single employee's needs. We have not revised the system since 1923, if you really want to get into civil service, and we are not attracting individuals who want to make a career out of the Federal Government, let alone people in the FBI working in New York City or in Cleveland, Ohio, or anywhere else, because we have a real pay problem and a benefit problem.

I would just hope that this administration—I haven't seen that same sort of evidence that I have found in the previous administration—would show a degree of respect and gratitude toward government workers and that you match that kind of respect with some form of compensation.

I am very, very supportive of the tone of this hearing, Mr. Chairman, and am delighted to have the pleasure to address you.

I would just like to ask one quick question. That is, do you see yourself dealing with the entire classification system comprehensively?

Ms. NEWMAN. Yes. I believe that all of these systems are so tied together because of the pay problem. I believe that we must address—and I am very sensitive to your observation—we must address the pay for employees at all levels. We must address the problem of incentives and training for employees at all levels.

In fixing the pay system, in a way, we will begin to start fixing some of the other systems that have been altered to respond to the pay problem, so we need to go back and look at the compensation system. We know that we need to know more about performance appraisals and how bonuses are given out under those systems.

Ms. OAKAR. I am not worried about bonuses for clerical workers because they are never going to be the ones who get those. I am merely concerned about the tone of an article that suggests that the reason we don't have good secretaries is because they are illit-

erate. That is a bunch of baloney. That is why I wanted to put that in the record and comment on it. It is really baloney. I mean, the reason we don't keep secretaries and clerical workers is we don't pay them fairly, among other reasons.

That is true of every avenue and that includes the FBI in terms of all the things they have to do. We are never going to have a dynamic work force in the same spirit of what we want it to be if we reduce their morale by certain actions.

Even the senior executive plan—they were talking about NASA and I represent one of the NASA sites—if you just remove the cap and give a raise to the upper echelon, it is the GS–14s and 15s and 13s who are in demand who could go out and make three times more in the private sector. That is why I just ask you, using this as a format, to review everything comprehensively and not show favoritism to one group and not the other.

I know from your own background, you would be obviously very sensitive to that, having worked for the Federal Government.

Thank you, Mr. Chairman.

Mr. ACKERMAN. Thank you very much.

Ms. Newman, thank you very much. Ms. Cooley, thank you very much for being with us today. We really appreciate it.

The second panel I will reintroduce consists of Mr. John Otto, the Associate Deputy Director of the Federal Bureau of Investigation and he is joined by Mr. Jim Fox, the Assistant Director in Charge of the New York Field Division of the FBI and Ms. Suzanne Bender, the Physical Security Specialist, New York Field Division of the FBI.

I understand, Mr. Otto, you will be presenting the testimony.

Mr. OTTO. Yes, Mr. Chairman.

Mr. ACKERMAN. Thank you. Welcome to you and your colleagues, glad to have you with us this afternoon. You may begin as you would like.

STATEMENT OF JOHN OTTO, ASSOCIATE DEPUTY DIRECTOR, FEDERAL BUREAU OF INVESTIGATIONS, ACCOMPANIED BY JIM FOX, ASSISTANT DIRECTOR IN CHARGE OF THE NEW YORK FIELD DIVISION, FEDERAL BUREAU OF INVESTIGATION, AND SUZANNE BENDER, PHYSICAL SECURITY SPECIALIST, NEW YORK FIELD DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. OTTO. Thank you, Mr. Chairman. We are very grateful for this opportunity.

Before I begin, inasmuch as this has been our first opportunity since the tragedy to appear before you, let us, on behalf of the FBI and particularly Director Sessions, offer our sympathy regarding the loss of your Mickey Leland. We feel very badly about that. We have lost colleagues in similar fashion over the years and we know what trauma it creates and we are very sorry.

At the same time, we also miss Larkin Smith. He was an FBI National Academy graduate and we grieve for his loss here in these hallowed halls, too.

Mr. ACKERMAN. Thank you very much for expressing those sentiments to us. Both of our colleagues are certainly going to be missed by the entire Congress and Mickey's loss as a chairman of a sub-

committee of this particular full committee will be especially noted among us and your sentiments are certainly well received.

Mr. OTTO. Mr. Chairman and members of the committee, thank you for this opportunity to appear and testify concerning the FBI's New York demonstration project. Your past support for the FBI, particularly for the New York demonstration project, is greatly appreciated. Appearing with me, as have been introduced, is Assistant Director Jim Fox, who is in charge of our New York Office, and Ms. Suzanne Bender, both assigned to the New York Field Office. Mr. Fox is in charge of the office and Ms. Bender is a representative of the hundreds of support employees assigned there, and a very fine representative, too, I might add.

The FBI's New York Field Office is the largest of our 57 field offices, with a complement that exceeds that staffing level of the next two largest offices combined, Washington, DC., and Los Angeles, California, by approximately 150 agents. Over 13 percent of all FBI Special Agents are assigned to New York. The territorial responsibility of the office encompasses a region that includes New York City, Long Island and five upstate New York counties. As the largest Federal law enforcement agency, and the Federal law enforcement agency with the broadest jurisdiction, the entire spectrum of Federal law enforcement throughout the United States is often connected, either directly or indirectly, to the work performed by our employees in the New York Office. This is particularly true in the area of foreign counterintelligence, where the FBI has sole investigative responsibility in this country and the number of foreign establishments there is very high. By its very size, the office also is critical to all other FBI priority programs, namely counterterrorism, drugs, white-collar crime, organized crime and violent crimes.

In addition, the investigations conducted by our New York office are among the most complex and sophisticated in all of law enforcement. The complexity of work in the New York office requires the assignment and retention of employees with considerable expertise and extensive experience. Often, these types of investigations are long-term, requiring years of dedication and work. The office is widely recognized for many major successes, including the recent "pizza connection" narcotics case and the "commission" organized crime cases. Investigations in these and other similar cases routinely center in New York and are very manpower-intensive. Experience, expertise, dedication and high morale are essential to sustain the type of effort required for these successes.

The long-term nature of these investigations requires continuity in our Special Agent ranks. Although resignations from the New York Office have traditionally been somewhat higher than in other FBI offices, turnover increased significantly with the rise in housing and living costs in the New York area. Resignations in the agent population approached one per week. In addition, we began experiencing larger numbers of employees who, when transferred to New York, resigned rather than put their families through the financial and personal hardships caused by high living costs and lengthy commutes. The cost is placed in focus when one considers that it costs approximately $60,000 to put a new agent on the street in New York City.

Because of high housing and other living costs, employees transferred into New York frequently were forced to adjust their lifestyles downward, even with their spouses working, and accept lengthy commutes, sometimes totaling five hours per day to and from affordable but distant housing. This obviously has had a direct negative impact on the operational performance of our employees.

Before William S. Sessions became Director, it became apparent to FBI management that the FBI must do all it could to rectify the recruitment, retention and operational problems being experienced in New York. Shortly after Director Sessions was sworn-in, he visited the New York Office and made improvement of employment conditions a priority for FBI management. As a result of oversight of the counterintelligence and counterterrorism programs, the House Permanent Selection Committee on Intelligence and the Senate Select Committee on Intelligence independently reached the same conclusion.

In 1987 and 1988, an extensive study was conducted by the FBI to identify potential solutions for the problems caused by the cost of living in the area. Due to the complexity of work in New York, Director Sessions decided to further accelerate the pay grade progression for Special Agents. This administrative change permitted the FBI to promote Agent personnel to the journeyman investigator level, GS13, faster than in our other offices. The studies, however, identified no additional meaningful administrative remedies that were available without new legislation. As a result, in March 1988, the FBI and Office of Personnel Management jointly proposed legislation to create a demonstration project to study the issues of recruitment and retention of employees in New York. That project was authorized for a five-year period by Public Law 100–453 in September, 1988.

The New York Office demonstration project authorizes periodic retention payments of 20 to 25 percent of base pay for those employees subject to transfer. This includes all Special Agents, intelligence aides, language specialists, investigative assistants, accounting technicians, electronic technicians and communications managers. This has resulted in a 25 percent increase to the base pay of the covered employees. In addition, a mobility payment of $20,000 is now paid to each employee transferred to the New York Office to assist in obtaining suitable housing.

As required by the enabling legislation, the FBI will submit annual interim reports throughout the five-year project. The first of these reports is expected in January, 1990, and we anticipate being able to evaluate the preliminary effect of the project at that time. However, we believe that the demonstration project will significantly reduce turnover and subsequently raise the overall experience levels in both the Agent and support staff job series covered by the demonstration project. I am confident that it will benefit us greatly, but we cannot fully assess its impact on recruitment and retention until the completion of the project.

This concludes my prepared remarks, sir.

Mr. ACKERMAN. Thank you very much, Mr. Otto.

Your testimony does not take a position on the proposed expansion of the demonstration project. The report by the Intelligence

Committee says that this expansion is desperately needed by your agency.

Does the FBI support expansion of the demonstration project to cover support staff who are currently not included?

Mr. OTTO. The FBI has supported all along any efforts to help our support staff in the New York office.

Mr. ACKERMAN. Does that include the expansion of the demonstration project?

Mr. OTTO. The Bureau's position is we will support efforts to help our support staff up there and it is definitely needed.

I have been with this project since its inception and I know that in October of 1986, the Senate Select Committee on Intelligence went to New York and came away with the distinct impression that something had to be done for the salaries of our personnel in New York.

In talking with the Office of Management and Budget and in talking with the Office of Personnel Management in response to the Senate Select Committee on Intelligence, I know that there were sincere and good-faith intentions by both of those organizations to not only help the Agent personnel in New York, but the support personnel there, too.

Mr. ACKERMAN. Do you have any recruitment and retention problems for support staff who are not in the demonstration project? For example, how many persons do you have to interview in order to hire one person, are you getting the quality of personnel that is needed by the FBI and how much turnover is there among your staff?

Mr. OTTO. Mr. Chairman, with your permission, I would like to ask Mr. Fox and Ms. Bender to respond. I could give you raw statistics, but I think they could perhaps give a more meaningful response.

Mr. ACKERMAN. Mr. Fox?

Mr. FOX. Yes, sir. For each support employee that we hire, that actually comes on board, more than 100 start the application process and they are eliminated either through test results, the background investigation or a variety of things.

Mr. ACKERMAN. Did you say 100?

Mr. FOX. More than 100 for every one that we end up hiring. Now, bear in mind, these are some people that just write in for an application and when they see, for instance, that we will not hire anyone who has been a drug user, that immediately eliminates them so they never even follow up on it.

Mr. ACKERMAN. Out of curiosity—it seems to be the topic of the day—how many such people turn themselves away because they were drug users?

Mr. FOX. I don't have that figure. The only drug tolerance we have is for experimental use of marijuana. Anything beyond that is an automatic bar to employment at the FBI.

Mr. ACKERMAN. Do you do routine testing, random testings or test everybody or all applicants or everybody on the job?

Mr. FOX. For those agents now on board, the random test series is just being fine-tuned and developed and that will be implemented, I believe, in the coming months. Everybody new that we hire is

tested and then in their probationary period, when implemented they will be subject to random testing again.

Mr. ACKERMAN. What percentage of the people who apply, who go through the process, or what number or percent, anyway you might be able to express it, are found to be using drugs, other than whatever it is you are tolerant of, you say occasional use of marijuana?

Mr. FOX. We call it "experimental use of marijuana in the past." That would be a very few number of times.

Mr. ACKERMAN. That would be on an investigative report, but on a testing basis, how many people——

Mr. FOX. I don't have that figure, sir.

Mr. ACKERMAN. Is that a significant number?

Mr. FOX. No, it is not a significant number. But I think your question went to the issue of those support employees who are not covered by the demonstration project and this is where the crisis is.

The demonstration project solved our problem with respect to hiring and retention among the agents. In 1987, 50 agents resigned out of the New York office. This year, that number thus far is 14 in this fiscal year, a dramatic decrease.

Mr. ACKERMAN. What were the reasons given for those resignations?

Mr. FOX. Almost always cost of living. Now, bear in mind, each time an agent resigns out of New York, it costs the taxpayers $120,000. It costs $60,000 to put him there and another $60,000 to replace him. So by losing 50 a year, it certainly was not cost-effective.

Mr. ACKERMAN. Does that person wind up working for the Federal Government in some other capacity?

Mr. FOX. He usually relocates very often with another Federal agency.

Mr. ACKERMAN. Outside of the New York City area.

Mr. FOX. Yes. Almost always in lower cost-of-living areas.

Mr. ACKERMAN. At a decrease in pay?

Mr. FOX. Very often at a pay parallel to what he earned in New York, but, for instance, in the Southwest or in the Midwest, he can live much better on that salary.

Among the support employees who are covered by the demonstration project, those resignations have decreased by 58 percent in the last two years.

Mr. ACKERMAN. Is that attributable to the demonstration project?

Mr. FOX. Yes. I am sure it is.

Mr. ACKERMAN. Directly?

Mr. FOX. I think the project has done exactly what you wanted it to do.

Mr. ACKERMAN. Could you tell us who is subject to the FBI's policy regarding directed geographical transfer or reassignment and how frequently are they transferred?

Mr. OTTO. That is primarily the agent population with certain categories of professional support employees included. Some nonagent linguists, some nonagent scientists, nonagent engineers, accounting technicians, individuals that have usually some special

talent or expertise are subject to transfer. They are categorized in that way.

We have left 509 of our employees in New York not covered by the demonstration project.

Mr. ACKERMAN. I am looking at the Committee Report for the Intelligence Authorization Act for Fiscal Year 1990. In it, there is an interesting assertion—it says:

> The result is the FBI in New York is losing experienced support personnel. It is forced to pay inadequate salaries to those that it recruits in their place and has become concerned about a potential problem hereto unknown in the Bureau, disgruntled employees who handle very sensitive counterintelligence and criminal investigative files.

I believe what this is saying is that for people on the lower end of the pay scale in those positions, if they are not paid adequately, there exists the potential that they will become disgruntled employees and, therefore, become security risks.

Ms. BENDER. Yes, Mr. Chairman, that is exactly what is possible.

My job is the Communications Security Custodian for the office. I handle all the top-secret equipment for our office. I have to work with electronic technicians to install the equipment, to give it out, to code it. It is much like what the Walker case was.

It is possible. In my job right now, I am the only person who is capable of doing it. I am the only person——

Mr. ACKERMAN. When you say it is much like the Walker case, in the Walker case, they weren't paid enough money, so they became spies?

Ms. BENDER. I am going to explain that right now.

The compromise situation is possible because what is happening is that only one person is able to do this in our office right now. We have tried to get other people to fill in and to canvass other people for that job. There is no one with experience right now who could take the job. Should I leave, there will be an inexperienced person in there, probably at a much lower grade with much less experience in the FBI and it is possible that such a low grade handling the top secret matters that I do, that there could be a compromise.

Mr. ACKERMAN. I don't really understand that.

Ms. BENDER. I am sorry, perhaps that was the wrong reference to use. What I handle is similar to what Mr. Walker was handling. The access is the same. That is what I was trying to say.

Mr. ACKERMAN. The access is the same, but I don't understand the theory behind it, that we should pay people more money on the basis of if we don't, the competition will. I would think for certain secrets, we would have to pay people a couple of million dollars because I think the competition might be willing to pay them certain large amounts of money. I don't know that——

Ms. BENDER. I don't think that is always the case. I think that people—what has happened in New York right——

Mr. ACKERMAN. The higher the salaried individual, the more integrity they have?

Ms. BENDER. No, not necessarily. But what is happening in New York right now is that there has become such a division because what has happened is that the agents have received the money and some of the clerical people have not. You have begun to get a group of disgruntled employees that feel that their work is not ap-

preciated. What they do is not worth the time and effort to put into it.

Once you get a disgruntled employee, it is much easier to turn him against the organization, no matter how much you are paying him.

Mr. Fox. If I could interject a historical note, sir.

Mr. ACKERMAN. Yes, Mr. Fox, could you?

Mr. Fox. Seventy years ago, the Soviet leader, Lenin, lecturing his Cheka chief—the Cheka was the predecessor of the KGB—said, in effect, "You don't have to recruit the Director of the FBI or even an FBI agent. Recruit the secretaries. They are always underpaid. They are paid a pittance," and I think in any agency, even the Congress, if you want to maintain the integrity of that body, you have to pay the employees a living wage and we are saying, in effect, in New York, there are 500 employees that are not paid a living wage and in their view, it is a discriminatory salary structure. A very disturbing fact here, of those 500 employees, 80 percent are females, 40 percent are minorities. I think that is the wrong message to send.

Mr. ACKERMAN. I hear what you are saying, but I don't know that I buy it, that underpaid females and minorities are less patriotic and more prone to become spies—or turned, or however you phrase it—because they are disgruntled and receive less pay. I don't know that a person's pay scale has anything to do with their integrity, patriotism, or loyalty as an American. I would think that even people who are volunteers with no pay at all could be patriotic Americans and not betray their country at any cost.

Ms. BENDER. I don't think patriotism comes into it. I think what has happened is that because of the disparity in pay and because you have separated the clerical force from the agent staff and certain support personnel, that they feel that they have become disenfranchised from the organization.

Mr. ACKERMAN. And so they would resort to selling secrets because they feel they——

Ms. BENDER. I don't know I can't honestly say that I know that anyone will do it, but I think that it certainly is a possibility.

Mr. Fox. Sir, every intelligence agency in the world, including the FBI and the KGB, when we are looking at a *target* to attempt to recruit, to work for us, one of the things we always look at is the size of his salary check and if he is satisfied with it or if he is disgruntled. We are certainly not saying the New York employees that were not included in the demonstration project are likely to commit treason or to commit espionage, but anytime you have a large body of people that are not happy and are disgruntled, they become the *target* for the other side.

Mr. ACKERMAN. I know a lot of Federal employees. I don't know any of them who think that they are overpaid. I don't know of any of them that are receiving more money than they can in private industry. I know a lot of people who handle State secrets, a lot of people who handle very sensitive materials, classified materials and could probably get an awful lot more money in two minutes than they can make in a lifetime by giving that kind of documentation to somebody it is not supposed to be given to, and who wouldn't necessarily be tempted.

I fail to see the strength of this argument as it applies to minorities, women or lower-paid individuals if they become disgruntled. We would be held hostage—and believe me, I start out on your side of this issue—I think that our whole system would be held hostage to any employee who says, if you don't pay me enough money, I'm going to give away the candy store. Maybe we should be interviewing 200 people for each of those slots instead of 100.

I am not saying that I disagree with the bottom-line position, but I disagree with the argument in getting there.

Mr. OTTO. May I comment, Mr. Chairman?

Mr. ACKERMAN. Please.

Mr. OTTO. This all began—at the risk of repeating myself here, but this all began in October of 1986 when the Senate Select Committee on Intelligence, in pursuing its responsibilities, visited our New York office and came away with the understanding that if there wasn't something done to improve the pay structure of the employees of the New York office, there were certain risks going to be potentially incurred by the New York office of the FBI. It did not start here.

Mr. ACKERMAN. That was an Intelligence Committee conclusion?

Mr. OTTO. The Senate Select Committee on Intelligence sent representatives to the New York office and it was they who came back with this idea that——

Mr. ACKERMAN. Could you share with us how they came to that conclusion? Was it suggested to them?

Mr. OTTO. I was not there and I don't know. I know what they reported when they came back and they had a concern and that is what we are responding to here.

Mr. ACKERMAN. The Senate Select Committee on Intelligence was concerned that if you didn't pay lower-salaried employees in the New York office more money, that they would sell secrets to a foreign government?

Mr. OTTO. I don't know if it was that specific at all, and it wasn't just lower-salaried employees; it was all employees that they wanted to address up there, sir.

Mr. ACKERMAN. Did they have a pay scale level at which people couldn't be bought? I would be hard-pressed to come up with a number at which people's integrity can be bought or not. Either it is for sale or it isn't, I think. Is what you are saying that these people feel like they have been betrayed?

Mr. OTTO. That is correct, sir.

Mr. ACKERMAN. And that they, therefore, have a right to betray back?

Mr. OTTO. No, I don't think that they are saying that. One of the things that Ms. Bender was——

Mr. ACKERMAN. You cheat on me; I will cheat on you?

Ms. BENDER. No, Mr. Chairman, I think that what I am trying to say is that we——

Mr. ACKERMAN. I don't mean to get stuck on this, but it is just not sitting right.

Ms. BENDER. I think what happens is that in the FBI, we really do become a family, that we have a family attitude about our work. My uncle was an agent, my father was an agent. My father intro-

duced me to the FBI and I am very proud to be working there right now, and I think there are a lot of people in my position.

I have had 14 years in the FBI right now. Last month was my anniversary. I feel, as do a lot of people that I represent, that it has been a gross inequity, what has happened to us in the office. The agents go out, collect information, solve the cases, but we are the backbone of that office. We handle all that information that comes in. There is no judicial proceeding that you can handle without documented evidence.

We take care of everything that comes into that office, handle it, send it out to the other offices, process it for the U.S. Attorney. People feel that they have been unfairly handled, unfairly taken care of. They feel that they work hand-in-hand with the agents and that they should be compensated in the same way. All you need is one disgruntled employee having this happen to him, but it isn't just that one disgruntled employee. It is the whole morale problem that we have right now in the office. There is no morale right now. People are just waiting to see what is going to happen. If this does not happen as of October 1st, I know from talking to the people that I represent that probably I would say a good 40 to 50 percent of the people will leave. I will leave. I just cannot live on what I am making right now in New York.

Mr. ACKERMAN. Let me say thank you first. I don't think there is anybody who has more admiration and respect for the FBI and its agents and the entire agency than I do. Certainly there are those who have as much. I think, as a group, this subcommittee pays the kind of respect to the FBI that it so rightfully deserves. We think you are not recognized, if I can speak for my colleagues, to the extent that you should be, that you are certainly underpaid and that the American people, as well as this Congress, owe you a tremendous debt of gratitude.

I have been, and intend to continue to be, supportive of those efforts to give you the kind of not just recognition that you could hang on the wall, but the kind of recognition and compensation that you need to adequately support yourselves and your families to which you are duly entitled and have long since earned and which is long since overdue. But I think it is a disservice that the Senate Intelligence Committee does to come to the conclusion that money can buy patriotism and loyalty and if we do not pay people an adequate sum of money that there may be a problem. I think there are certainly stronger arguments to it and I know this was not your initial argument and it was not even amongst them and I did draw this out of the report that was given, but I just want to clarify that for the record.

I thank you very much.

Mrs. Morella.

Mrs. MORELLA. Thank you. I associate myself with the remarks of the chairman with regard to the tribute to the FBI and what you have done. We are all very grateful and we are very supportive of what you are doing.

Certainly as somebody who has been listening to the give and take here with regard to the statement that came from the Senate Intelligence Committee, I also am appalled, absolutely appalled, to think that any employee of the Federal Government would even

consider, conceive of doing anything to hurt this great country. I know this would be a very remote thing, but maybe it says something about ethics in terms of professionalism and professional training because regardless of the salary—and I think it should be raised—I think if somebody is dissatisfied, they can leave. I cannot possibly tolerate any concept of lack of patriotism.

Now, back to the subject of the numbers. I am a little confused. How many support people are receiving these special rates and how many are not?

Mr. Fox. In round figures, we have 800 support employees, 300 are covered under the demonstration project, 500 are not covered.

Mrs. MORELLA. And 500 are uncovered. Why are—how are they chosen? Why the 300, why are they covered and the 500 not?

Mr. Fox. The legislation said those individuals who were subject to directed transfer would fall under the demonstration project and the job descriptions of 500 of our support employees do not say they are subject to directed transfer.

Mrs. MORELLA. Is it possible that you have some people that would be part of the demonstration project who are also receiving special rates?

Mr. Fox. It is possible there could be a few. I think the number would be fairly insignificant. I don't have that figure at hand, though.

Mrs. MORELLA. It is one of the points that is brought out in Secretary Newman's paper here about the fact that there may be some who are already receiving special rates and they would, therefore, be compensated twice and that would lead to, again, lack of morale and equity, et cetera, but you answer to that is that there are so few.

Mr. Fox. I believe there are very few and I should say I have no quarrel with Director Newman's statements in principle and all we need is relief in New York for these 500 support employees, and if special rates can do it, fine. I think what some of the employees are saying in New York is we have been talking about special rates for a year and a half and we don't have a penny in our pocket yet and that is causing the frustration and the high resignation rate.

Mrs. MORELLA. Ms. Bender, you said you are in the top of your area at this particular point.

Ms. BENDER. Yes.

Mrs. MORELLA. Are you subject to being transferred?

Ms. BENDER. I am not subject to directed transfer. My position is only in New York, WFO and headquarters. We don't have as large of a communication section in our other offices. While I could be sent to either one of those offices because I am not subject to directed transfer I could decline the transfer and not suffer any adverse action.

Mrs. MORELLA. What about the agents? How long do they generally stay in New York? Do some stay there constantly and never transfer?

Mr. Fox. When they come there, none of them want to stay very long, with the exception of the New York City natives. They normally come back willingly and want to stay there for their entire FBI career. The others, in the past, have tried various techniques to get out, including volunteering for undercover assignments, for

desk jobs at headquarters or, of course, in too many cases, just resigning.

The demonstration project has changed all that. They are willing to stay there now and how long they have to stay there depends on where they want to go from New York. If they want to go to Detroit or Chicago, they can probably get there in two or three years. If they want to go to Columbia, South Carolina, it is going to take them 25 years.

Mrs. MORELLA. So what you are saying is that you are going to find when you do your appraisal of the effectiveness of the demonstration project, that the resignation rate much lower. You already have, I think you said, only 14 this year. Also for the support staff, those 300 who are covered, you expect that that is going to be the same?

Mr. FOX. Yes. In fact, that resignation rate has already decreased 58 percent in that support group included in the demonstration project.

Mrs. MORELLA. That has decreased 58 percent. So it is the 500 people we are looking at that are not covered that don't believe that there really will be a remedy.

Mr. FOX. Actually, the resignation rate in that group is up 32 percent. It is not up higher because they are very hopeful there will be a remedy this year and I have urged them to stay until the end of the year and I have been urging them for over a year now, and I think if there is no relief, I would see that 32 percent figure increasing dramatically.

Ms. BENDER. I think I can agree with that. As representative of most of the clerical people, the 500 clerical people do not intend to stay longer than the October deadline and I don't think that they would think that special rates would be an adequate solution. In most instances, in what we have seen preliminary indications that special rates provide a very small increase. It is based on your grade and your step within that grade. Most special rates on the lower grades are fairly high, but as you get into the higher grades, they go down to like 4, 5, and 6 percent. It could possibly be as little as $1,000 a year.

These people are making probably $15,000 to $17,000 and a thousand dollars is not going to remedy the problem right now.

Mrs. MORELLA. Certainly not in New York.

Would you be willing to have something included that would not allow those people—some people, you say a very few—to be paid twice?

Mr. FOX. In other words, special rates and demonstration project?

Mrs. MORELLA. Yes.

Mr. FOX. I think we would accept whatever OPM thought was equitable there. There is certainly no need for the double pay in that issue. The demonstration project or a significant special rate would do it.

Mrs. MORELLA. Right.

Ms. BENDER. I think there is in the previous bill. There is a base and then there is the top and I think it is between 20 to 25 percent and I think that even if they maintain the special rates, they could

be given up to that 25 percent of the demonstration project and I think that would still be an equitable solution to the problem.

Mrs. MORELLA. I thank you very much for testifying on this important issue and for the work you are doing.

Ms. BENDER. Thank you.

Mrs. MORELLA. Thank you, Mr. Chairman.

Mr. ACKERMAN. Thank you.

Let me thank the panel very much for your testimony. It has been very helpful. It has been very edifying this afternoon and we hope to be helpful to you.

Mr. OTTO. Thank you for the opportunity, Mr. Chairman.

[Whereupon, at 3:20 p.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

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